

Order

Michigan Supreme Court
Lansing, Michigan

October 4, 2006

Clifford W. Taylor,
Chief Justice

129043

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

JOHN POWELL,
Plaintiff-Appellee,

v

SC: 129043
COA: 261541
Court of Claims: 04-000077-MD

DEPARTMENT OF TRANSPORTATION,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the June 16, 2005 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and we REMAND this case to the Court of Claims for entry of an order granting the defendant's motion for summary disposition. The plaintiff's claim is barred by governmental immunity. The highway exception to governmental immunity does not apply because the shoulder of a highway is not part of the "improved portion of the highway designed for vehicular travel" for purposes of the highway exception to governmental immunity, MCL 691.1402(1), and is not "designed for vehicular travel." *Grimes v Dep't of Transportation*, 475 Mich 72, 73 (2006).

CAVANAGH, J., would deny leave to appeal.



s0927

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 4, 2006

Corbin R. Davis

Clerk